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GUESS RETAIL, INC.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Chris Kohler,

Plaintiff,

vs.

Guess Retail, Inc., dba Guess Factory Store
#3190

Defendant.

Case No. 10cv1110 BEN (WMc)

**DEFENDANT GUESS RETAIL, INC.'S
NOTICE OF RELATED CASES**

[Southern District Local Rule 40.1]

Date Action Filed: May 21, 2010

NOTICE IS HEREBY GIVEN, pursuant to Southern District Local Rules 40.1(e) and (f), that the case captioned *Kohler v. Chelsea San Diego Finance, LLC, et. al.*, Case No. 3:09-cv-02780-JAH-BLM ("Kohler I"), already pending in this district, is related to the above-captioned *Kohler* case ("Kohler II"). Under Local Rule 40.1(f), cases are considered related if they "involve some of the same parties and are based on the same or similar claims" or "involve substantially the same facts and the same questions of law." Here, the *Kohler I* and *Kohler II* cases are related because they involve: (1) the same plaintiff – Christopher Kohler ("Kohler"); (2) the same plaintiff's counsel – Lynn Hubbard of the Disabled Advocacy Group; (3) the same defendant – Guess Retail, Inc. and (4) the same alleged violations of the Americans with Disabilities Act, including the same question of law regarding the bench issue that will soon be decided in the *Kohler I* action.

1 The *Kohler I* case was filed on December 14, 2009 and involves defendants with retail stores
 2 located at the Plaza de las Americas Shopping Mall. In *Kohler I*, Kohler has alleged that most of the
 3 30+ defendants, including Guess, violated the ADA because their dressing room bench is not the
 4 proper length. Specifically, the defendants in *Kohler I* each have a dressing room bench that is more
 5 than 48 inches long. Kohler claims that the law requires that the bench in the accessible dressing room
 6 to be *exactly* 48 inches long, while the defendants claim that the law only requires that the benches to
 7 be at least 48 inches long.

8 This action, *Kohler II*, was filed on May 21, 2010 against *only* defendant Guess. Kohler is the
 9 sole plaintiff in both *Kohler I* and *Kohler II* and is represented by Lynn Hubbard in both cases. As in
 10 *Kohler I*, Kohler again claims Guess violated the ADA because its dressing room benches are not
 11 exactly 24 by 48 inches long in *Kohler II*. See Complaint at ¶¶ 11-33. In sum, both actions involve:
 12 (a) the same plaintiff; (b) represented by the same counsel; (b) seeking similar relief; (c) under similar
 13 legal theories; (d) against the same defendant (Guess, *et. al.* in *Kohler I* and Guess alone in *Kohler II*).
 14 There are no additional parties in *Kohler II* not currently present in *Kohler I*.

15 Because the issues in *Kohler I* and *Kohler II* are so closely connected, the instant *Kohler II* case
 16 qualifies for related case transfer, and should be re-assigned to Judge Houston.

17
 18 Dated: July 6, 2010

AKIN GUMP STRAUSS HAUER & FELD LLP
 CATHERINE A CONWAY
 KALIA C. PETMECKY
 JOEL R. MEYER

By /S/ Kalia C. Petmecky
 Kalia C. Petmecky
 Attorneys for Defendant GUESS RETAIL, INC.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, Kalia Petmecky, am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: Akin Gump Strauss Hauer & Feld, LLP, 2029 Century Park East, Suite 2400, Los Angeles, California 90067. On July 6, 2010, I served the foregoing document(s) described as: **Defendant Guest Retail Inc.'s Notice of Related Cases** on the interested party(ies) in this action as follows:

On all parties identified for Notice of Electronic Filing generated by the Court's CM/ECF system under the above-referenced case caption and number on this date, in the following manner.

☒ BY ELECTRONIC SERVICE – by causing the document to be served via the Court's ECF Filing System.

☐ BY PERSONAL SERVICE – I delivered such envelope(s) by hand to the offices of the addressee(s).

☐ BY OVERNIGHT DELIVERY I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the respective address(es) of the party(ies) stated above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

☐ BY FAX Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the respective fax number(s) of the part(ies) stated above. No error was reported by the fax machine that I used. A copy of the record of fax transmission(s), which I printed out, is attached.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: July 6, 2010

/s/ Kalia C. Petmecky

Kalia C. Petmecky